



House of Representatives

General Assembly

File No. 358

February Session, 2010

Substitute House Bill No. 5207

House of Representatives, April 7, 2010

The Committee on Government Administration and Elections reported through REP. SPALLONE of the 36th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CRIMINAL BACKGROUND CHECKS FOR PROSPECTIVE STATE EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 46a-80 of the 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2010*):

4 (a) Except as provided in subsection (b) of this section, subsection
5 (b) of section 46a-81 and section 36a-489, and [notwithstanding any
6 other provisions of law to the contrary,] any other provision of the
7 general statutes that specifically disqualifies a person [shall not be
8 disqualified] from employment by the state of Connecticut or any of its
9 agencies [, nor shall a person be disqualified to practice, pursue or
10 engage] or disqualifies a person from practicing, pursuing or engaging
11 in any occupation, trade, vocation, profession or business for which a
12 license, permit, certificate or registration is required to be issued by the
13 state of Connecticut or any of its agencies because of a prior conviction

14 of a crime, a person shall not be disqualified from employment by the
15 state of Connecticut or any of its agencies nor shall a person be
16 disqualified to practice, pursue or engage in any occupation, trade,
17 vocation, profession or business for which a license, permit,
18 certification or registration is required to be issued by the state of
19 Connecticut or any of its agencies solely because of a prior conviction
20 of a crime.

21 (b) A person may be denied employment by the state or any of its
22 agencies, or a person may be denied a license, permit, certificate or
23 registration to pursue, practice or engage in an occupation, trade,
24 vocation, profession or business by reason of the prior conviction of a
25 crime if after considering (1) the nature of the crime and its
26 relationship to the job for which the person has applied; (2)
27 information pertaining to the degree of rehabilitation of the convicted
28 person; and (3) the time elapsed since the conviction or release, the
29 state, or any of its agencies determines that the applicant is not suitable
30 for the position of employment sought or the specific occupation,
31 trade, vocation, profession or business for which the license, permit,
32 certificate or registration is sought.

33 (c) Except as provided in subsection (a) of this section, no employer,
34 as defined in section 5-270, shall inquire about a prospective
35 employee's past convictions using a consumer report, as defined in
36 section 31-51i, until such prospective employee has been deemed
37 qualified for the position and a conditional offer of employment has
38 been made to the prospective employee.

39 [(c)] (d) If a conviction of a crime is used as a basis for rejection of an
40 applicant, such rejection shall be in writing and specifically state the
41 evidence presented and reasons for rejection. A copy of such rejection
42 shall be sent by registered mail to the applicant.

43 [(d)] (e) In no case may records of arrest, which are not followed by
44 a conviction, or records of convictions, which have been erased, be
45 used, distributed or disseminated by the state or any of its agencies in
46 connection with an application for employment or for a permit, license,

47 certificate or registration.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2010</i>	46a-80
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LAB *Joint Favorable Subst. C/R*

GAE

GAE *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes minor changes and conforms statute to current practice, which has no fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sHB 5207*****AN ACT CONCERNING CRIMINAL BACKGROUND CHECKS FOR PROSPECTIVE STATE EMPLOYEES.*****SUMMARY:**

With two exceptions, the law prohibits the state and its agencies from disqualifying a person from state employment or denying, suspending, or revoking a credential (such as a professional, trade, or business license) solely because of the person's prior conviction. The exceptions are for law enforcement agencies and licensing mortgage lenders, correspondent lenders, and brokers. Instead, prior to making a decision based on a prior conviction, the relevant agency must consider the nature of the crime, its relation to the job, the person's rehabilitation, and the time since the conviction or release before finding someone unsuitable for the position or credential.

Current law requires an agency to consider these factors regardless of other law and even when another law purports to govern denying credentials due to lack of good moral character or suspending or revoking a credential due to a conviction. Under the bill, an agency is only required to consider these factors when a statute does not specifically disqualify someone from the relevant employment or activity that requires the credential because of a prior conviction of a crime.

The bill prohibits certain covered state employers from asking about a prospective employee's past convictions using a consumer report until the person is deemed qualified for the position and given a conditional offer of employment. The applicable employers are the state; the executive and judicial branches including any of their boards, departments, commissions, institutions, agencies, or units; boards of trustees of state-owned or -supported colleges, universities, or their

branches; public and quasi-public state corporations; authorities established by law; and anyone designated by the employer to act in its interest with employees. It does not include the state Board of Labor Relations, Board of Mediation and Arbitration, or, apparently, the legislative branch.

EFFECTIVE DATE: October 1, 2010

BACKGROUND

Related Bills

sSB 54, File 186, favorably reported by the Banks Committee, allows the banking commissioner to conduct state and national criminal background checks of license applicants and expands the commissioner's authority to deny applications on the basis of criminal convictions. The provision applies to applications for a sales finance company, small loan lender, check cashing service, money transmission or payment instrument issuer, debt adjuster, debt negotiator, or consumer collection agency license.

sSB 59, File 188, favorably reported by the Banks Committee, specifies that the banking commissioner's authority to conduct criminal background checks of key personnel of Connecticut banks and Connecticut credit unions in various circumstances includes the authority to conduct both state and national background checks.

sSB 399, favorably reported by the Judiciary Committee, creates a civil action for violations of certain laws related to employment applications, consumer reports, and deletion of erased criminal records.

sHB 5186, File 178, favorably reported by the Banks Committee, expands the banking commissioner's authority to (1) deny, suspend, or revoke the registration or (2) restrict or impose conditions on the securities or investment advisory activities of various individuals regulated by the Uniform Securities Act due to such individuals' criminal conviction history.

sHB 5409, favorably reported by the Banks Committee, requires the commissioner to deny a debt settlement application if he finds that the applicant or certain individuals connected to the applicant have been convicted within the past 10 years of any felony or a misdemeanor involving any aspect of the debt settlement business.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 7 Nay 3 (03/09/2010)

Government Administration and Elections Committee

Joint Favorable

Yea 8 Nay 7 (03/26/2010)